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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,885	10/31/2003	Magdalena Luisa Olmedo	12099-0002	9030

22902 7590 07/05/2005

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WASHINGTON, DC 20005

EXAMINER

HAND, MELANIE JO

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/697,885

Applicant(s)

OLMEDO, MAGDALENA LUISA

Examiner

Melanie J. Hand

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 5-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. AR P020104388, filed on November 14, 2002.

It is noted that this application appears to claim subject matter disclosed in prior Application No. AR P020104388, filed November 14, 2002. A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e) or 120. See 37 CFR 1.78(a).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Taniguchi (U.S. Patent No. 3,882,871).

With respect to **Claim 5**: Taniguchi teaches a semi-disposable diaper set comprising in combination a diaper cover, absorbent pad, and hydrophobic net lining (see Abstract). Taniguchi teaches that covering 10 is of a gas-permeable, water-repellent and stretchable property. Polyvinylchloride possesses these characteristics and is taught by Taniguchi as a material used for covering 10 (Col. 3, lines 55,56; Col. 5, lines 12,13). Taniguchi teaches net 50 that is comprised of filamentary yarns and having a large mesh and more than one ply (Col. 3, lines 59-65). Taniguchi teaches that pad 40 is comprised of hydrophilic fiber, of which cellulose is an example (Col. 3, lines 34-37).

With respect to **Claim 6**: Taniguchi teaches edges 27,28 of net 50 that correspond to the edges of the set as a whole and are straight without elastic as seen in Fig. 3 (Col. 4, line 22).

With respect to **Claim 7**: Taniguchi teaches that absorbent pad 40 is comprised of knitted jersey (Col. 3, lines 38,39) with edge 42 forming a periphery around the absorbent material and without elastic as shown in Fig. 1.

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With respect to **Claim 9**: Taniguchi teaches members 29 and 30 sewn to the edges of lower portion 14 of covering 10 in its stretched condition that provide a better enclosing shape, interpreted here as functioning as a leak guard for covering 10 and net 50.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taniguchi in view of Pozniak et al (U.S. Patent No. 6,579,275).

With respect to **Claim 8**: Taniguchi does not teach applying a protective gel or cream to the surface of absorbent pad 40 facing the user. Pozniak teaches a disposable absorbent article with bodyside liner 44 overlaying absorbent core 46 to which a lotion

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or treatment is applied to treat or be transferred to the user's skin (Col. 9, lines 21-23). It would be obvious, then, to modify the diaper set of Taniguchi to contain a treatment cream or lotion, as this imparts the benefit of skin treatment as taught by Pozniak.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taniguchi in view of Wada et al (U.S. Patent No. 6,498,283).

With respect to **Claim 10**: Taniguchi does not teach a leak guard system for pad 40. Wada teaches a garment 1 with an absorbent core 4 with side barriers 4c (Col. 3, lines 11,12). Wada teaches that these barriers absorb exudates and, via a lower density of fluff relative to lower region 4d, channels the exudates immediately to the lower region 4d of core 4 (Col. 4, lines 39-43), therefore acting as a barrier to leakage of exudates out of the side of garment 1. Therefore it would be obvious to modify the pad 40 of Taniguchi by forming side barriers from the absorbent material in the pad to equip the pad 40 with its own leakage prevention as taught by Wada.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Melanie J Hand
Examiner
Art Unit 3761

MJH

TATYANA ZALUKAEVA
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Zalukaeva', with a long horizontal flourish extending to the right.